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S.B. CIVIL MISC. APPEAL NO.1878/2006.
Ramesh Kachawaha & Anr. Vs. Karan Singh & Ors.

Date of Order :: 12th February 2007.

HON'BLE MR. JUSTICE DINESH MAHESHWARI

Mr. P.C. Solanki, for the appellants.

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For awarding compensation to the parents of the 11 years old vehicular accident victim Kumari Nidhi, the Tribunal has proceeded to take notional income of the deceased at Rs.1,200/- per month and after deducting one-third on the personal expenditure of the deceased and with application of multiplier of 15, has assessed pecuniary loss for the claimants at Rs.1,44,000/-. The Tribunal has further proceeded to allow Rs.20,000/- towards non-pecuniary loss and Rs.5,000/- towards funeral expenses and in this matter has made the award in all in the sum of Rs.1,69,000/- together with interest @ 7.5% per annum from the date of filing of the claim application in favour of the claimant-appellants.

Learned counsel Mr. P.C. Solanki appearing for the claimant-appellants seeking enhancement of the amount of compensation has strenuously contended that the Tribunal has been in error in applying multiplier of 15 only because the age of the claimants was about 38 and 32 respectively at the

time of filing of the claim application and, therefore, the multiplier of 16 ought to have been allowed; that the amount allowed towards loss of love and affection at Rs.10,000/- is also on the lower side; and that the Tribunal was not justified in allowing interest only at the rate of 7.5% per annum.

Having heard learned counsel for the appellants and having examined the award impugned in its totality, this Court is clearly of opinion that the amount awarded by the Tribunal as compensation to the appellants cannot be said to be too low or grossly inadequate so as to warrant interference in appeal.

The Tribunal has proceeded to put a reasonable estimate on the notional income of the deceased, 11 years in age and with application of multiplier of 15 has arrived at a reasonable figure of Rs.1,44,000/- towards pecuniary loss. Though application of multiplier of 15 does not appear incorrect in view of the age of the victim, yet if any inadequacy with reference to application of such multiplier as suggested by the learned counsel for the appellant be taken into consideration, the fact remains that rather higher amount towards non-pecuniary loss in the sum of Rs.20,000/- bifurcating it into mental agony and loss of love, affection and services has been allowed; and strictly speaking, no such amount could have been awarded on so-called mental agony.

The Tribunal has further allowed wee bit higher amount of Rs.5,000/- towards funeral expenses.

In the ultimate analysis, the award as made by the Tribunal in the sum of Rs.1,69,000/- in favour of the claimant-appellants cannot be said to be falling short of just compensation admissible in this case. The rate of interest at 7.5% per annum in the award made in the month of August 2005 cannot be said to be too low or insufficient. There appears no scope for enhancement.

The appeals fails and is, therefore, dismissed summarily.

(DINESH MAHESHWARI), J.

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